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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,169	07/08/2003	Yasuo Miyauchi	03500.017382	6441
5514	7590	07/28/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			CHAU, MINH H	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2854	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,169

Applicant(s)

MIYAUCHI ET AL.

Examiner

Minh H Chau

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/8/03 & 8/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. **Claims 1, 2, 5 and 7** are rejected under 35 U.S.C. 102(a) as being anticipated by Kishida et al. (US # 6,315,468).

With respect to **claim 1**, Kishida et al. teach a printer or a recording apparatus (Fig. 1) for causing a recording heads or recording unit (5, 6) for recording on a paper or a recording material, comprising a paper feeding roller (33) for feeding a paper or recoding paper, a gap regulating unit or a carriage lifting mechanism (30) for changing an interval between the recording unit and the recording material, a capping apparatus or a cleaning unit (7) for maintaining/recovering a function of the recording unit, a control instruction or a separation instruction to separate the recoding unit fro the recoding material, an interval between the recording unit and the recording material is changed before a recoding operation is started by the recoding unit (col. 7, lines 48+) and the position of the recording unit is returned to a predetermined position (when the gap between the recoding unit and platen is small or in a minimum state) before a cleaning operation is started by the cleaning unit (see Figs. 1-7 and cols. 4-9).

With respect to **claim 2**, see Fig. 1 and col. 7, lines 34+ of Kishida et al. teach a recoding unit is separated in the height wise direction and before the recording

operation is initiated, the position of the recording unit is progressively changed in the height wise direction and the recording unit is returned to the initial position (when the PG is small) before the cleaning operation is initiated.

With respect to **claim 5**, see col. 7, lines 48+ of Kishida et al. teach the separation instruction is issued by a signal transmitted by a host computer.

With respect to **claim 7**, see cols. 4-5 of Kishida et al. teach the cleaning unit(7) includes a capping member (8, 9) for covering the recording unit (5, 6) and a wiping member (23) for wiping the recording unit.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishida et al. as applied to claims 1, 2, 5 and 7 above.

With respect to **claims 3 and 4**, Kishida et al. teach col. 7 that the height position of the recording head are adjusted or switched in accordance with the separation instruction for performing recording to a certain thickness of recording medium such as special paper, postcard and so on.

Kishida et al. teach all the limitation as explained above, except for the "CD position for recording data on a CD".

Kishida et al. teach the gap adjusting mechanism can be adjust to accommodate different thickness material such as special paper, postcard and so on (col. 7).

In view of this teaching, it would have been obvious to one of skill in the art to modify the device of Kishida et al. to include gap adjusting mechanism that provide a proper gap for a CD position so that the printing device of Kishida et al. can recording on a CD.

5. Claims 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishida et al. as applied to claims 1, 2, 5 and 7 above, and in view of Tanabe et al. (JP 2002-2056).

With respect to **claim 6**, Kishida et al. teach all the limitation as explained above, except for the limitation of “the separation instruction is issued by a **signal based on a sensor in the recording apparatus**”.

Tanabe et al. teach a printing device comprising a gap adjusting mechanism (E) for adjusting the interval between the printing head (13) and the platen (11) based on the signal from the thickness sensor (34) (see the abstract of Tanabe et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the device of Kishida et al. to include the gap adjusting mechanism for adjusting the interval between the printing head and the platen based on the signal from the thickness sensor the sensor as taught Tanabe et al. so that a gap interval can be adjust properly according to the thickness of recording material used in the printer.

With respect to **claims 3 and 4**, for the reason of argument, the Examiner is providing a prior art of Tanabe et al. that teach a gap adjusting mechanism (E) for adjusting the interval between the printing head (13) and the platen (11) for a CD position for recording data on a CD mounted on a tray (23) (see Figs. 1-4 and paragraph [0013-0016] of Tanabe et al.)

In view of this teaching, it would have been obvious to one of skill in the art to modify the device of Kishida et al. to include a gap adjusting mechanism for adjusting the interval between the printing head and the platen for a CD position as taught by Tanabe et al. so that the recording data can be recording on a CD.

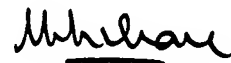
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Applicant's attention is invited to the patents to Hirano et al. (US # 5,479,194), Saikawa et al. (US # 5,751,301), Ahne et al. (US # 6,406,110), Lee et al. (US # 6,629,787) and Nagao et al. (JP 09-188028).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh H Chau whose telephone number is (571) 272-2156. The examiner can normally be reached on M - TH 9:30AM - 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHC
July 25, 2004



Minh Chau
Primary Examiner